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In the Matter of:	:	
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	:	HUDBCA No. 04-K-NY-AWG06
<b>Melvin Bryant,</b>	:	
	:	
Petitioner	:	

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Selma, NC 27576

Pro se

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For the Secretary

**DECISION ON ADMINISTRATIVE WAGE GARNISHMENT**

Petitioner requested a hearing concerning a proposed administrative wage garnishment relating to a debt allegedly owed to the U.S. Department of Housing Urban Development (“HUD”). This alleged debt resulted from a defaulted loan, which was insured against non-payment by the Secretary of HUD. The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3702D), authorized Federal agencies to utilize administrative wage garnishment as a remedy as for the collection of debts owed to the United States Government.

The administrative judges of this Board have been designated to determine whether this debt is past due and enforceable against Petitioner and, if so, whether the Secretary may collect the alleged debt by administrative wage garnishment. 24 C.F.R. §

17.170(b). This hearing was conducted in accordance with the procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170. The Secretary has the initial burden of proof to show the existence and amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). Petitioner, thereafter, must present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, Petitioner may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to Petitioner, or that collection of the debt may not be pursued due to operation law. 31 C.F.R. § 285.11(f)(8)(ii). Pursuant to 31 C.F.R. § 285.11(f)(10)(i), issuance of a wage withholding order was stayed until the issuance of this written decision.

### **Summary of Facts and Discussion**

On March 12, 1993, Petitioner executed and delivered to Tarheel Housing Center, Inc. a retail installment contract in the amount of \$53,897.20 to purchase a manufactured home that was financed by Logan Laws Financial Corporation (hereinafter “Logan Laws”) and insured against nonpayment by the Government National Mortgage Association (“GNMA”) pursuant to section 306(g) of the National Housing Act, 12 U.S.C. § 1721(g). (Secretary’s Statement, hereinafter, “Secy. Stat.” Exh. A). Petitioner then defaulted on the note, and GNMA holds all right, title, and interest of Logan Laws. (Secy. Stat., ¶ 3). Petitioner is indebted to the United States in the following amounts: \$15,868.14 as the unpaid principal balance; \$6,539.11 as the unpaid interest on the principal balance at 13% per annum through January 14, 2004; the interest allowed under law on said principal balance subsequent to January 14, 2004 until paid, and administrative fees of \$1,274.18, which include mortgage insurance, escrow advance, late charges, and charges associated with prior collection attempts beginning in 1996 and ending when the case was referred to Department of the Treasury for collection. (Secretary’s Response to Order, Exh. B, Declaration of Bryan Hooper, ¶ 4).

Petitioner has previously alleged that he does not owe the full amount of the debt. However, he has failed to file any evidence that would prove that the debt is not past due or unenforceable. Moreover, Petitioner has not responded to the Board’s Notice of Docketing, Order, and Stay of Referral dated December 23, 2003 and its subsequent Order to Show Cause dated February 19, 2004. The Board finds that the debt is past due and enforceable in the amount stated.

Finally, Petitioner has indicated an interest in negotiating a repayment plan. While Petitioner may wish to negotiate repayment terms with the Department, this Board is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the Department. Petitioner may want to discuss this matter with Counsel for the Secretary or Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. His telephone number is 1-800-669-5152, extension 4206. Petitioner may also request a review of his financial status by submitting to the HUD Office a Title I Financial Statement (HUD Form 56142). In any event, Petitioner has provided no legal or credible factual basis on which this Board can find that he is not liable for repayment of the outstanding balance due on this loan.

**ORDER**

For the reasons set forth above, the Order imposing the stay of referral of this matter to the U.S. Department of Treasury for administrative wage garnishment is vacated.

It is hereby ORDERED that the Secretary is authorized to seek collection of this outstanding obligation by means of administrative wage garnishment to the extent authorized by law.

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H. Chuck Kullberg  
Administrative Judge

March 24, 2004